

January 14, 1938

Mr. Charles Rogers,  
County Attorney,  
Safford, Arizona.

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**ARIZONA ATTORNEY GENERAL**

Dear Mr. Rogers:

Replying to your inquiry of January 8, 1938 concerning the increase of salary for the judges of the Superior Courts of Graham and Greenlee Counties, you are advised that the 12th Legislature, 1st Special Session 1936, Chapter 12, provided for the increase of salaries of all judges of the Superior Courts of the state.

However, in the case of *Faires v. Frohmiller*, 67 Pac.(2d) 470 the Supreme Court held that Judge Faires could not have the benefits of such increase in salary during the term he was serving at the time said Chapter 12 was enacted. The court held that section 17, part 2, article 4 of the constitution prohibited the legislature from increasing the salary of a public officer during the term for which he was elected. The rule announced in the *Faires* case only applies to judges of Superior Courts when the membership of such courts was less than two.

In the case of *Peterson vs. Speakman*, 66 Pac.(2d) 1023 the Supreme Court held that the judges of the Superior Court of Maricopa County were entitled to the benefits of the increase in salary under the provisions of said Chapter 12 because the Superior Court of Maricopa County consisted of more than two members and that inasmuch as one member of the Superior Court of Maricopa County would begin a new term after said Chapter 12 was enacted and would therefore be entitled to the increased salary that all the members of the Superior Court of Maricopa County would be entitled to the increase under the provisions of section 17, part 2, article 4 of the constitution of Arizona.

In view of the holding in the *Faires-Frohmiller* case, it is our opinion that the judges of the Superior Courts

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of Graham and Greenlee Counties are not entitled to claim the benefits of the increase in salary under said chapter 12 during their present terms of office.

Yours truly,

JOE CONWAY  
Attorney General

EARL ANDERSON  
Special Assistant  
Attorney General